THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

Writ Petition No.1007 of 2007

Date:19.01.2007

Between

Abdul Gani Khan.

----------Petitioner

And

Transmission Corporation of A.P.Limited and others.

----------Respondents

ORDER:

The petitioner is extended power supply under category LT-III (a) Industrial, at Masab Tank, Hyderabad. The officials of the respondents-Corporation caused an inspection on 23.08.2006 and are said to have noticed that the seals put to the meter were tampered. On the basis of this observation, the second respondent issued a letter, dated 28.08.2006, to the petitioner, stating that the electricity charges due to them, on account of the acts of pilferage are provisionally assessed at Rs.1,83,154/-. It was also indicated that in case, the petitioner wants the continuance of power supply, he must pay a sum of Rs.91,577/-. The petitioner is said to have been granted three instalments for paying the same. The said letter is challenged in this Writ Petition.

Heard the learned counsel for the petitioner and

the learned Standing Counsel for the respondents.

The scope of controversy in this Writ Petition is very limited. The enquiry into the alleged acts of pilferage against the petitioner is pending. The second respondent made a provisional assessment of the value of the power said to have been pilfered. A Division Bench of this Court in W.A.No.452 of 2004 had an occasion to examine the power of the respondents under Section 126 of the Electricity Act, 2003. It was held that the said provision does not enable the authorities to levy amounts, on the basis of provisional assessment, even while the enquiry is pending.

Following the same, the Writ Petition is allowed and the respondents are directed to continue the power supply to the petitioner, without insisting on payment of any amount towards provisional assessment. The liability of the petitioner, on account of the alleged acts of pilferage, would depend upon the outcome of the enquiry by the competent authority. There shall be no order as to costs.

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